

A meeting of the New Hampshire Water Well Board was held on June 1, 2006 at 9:00 AM, in rooms 112 & 113, 29 Hazen Drive, Concord, NH, 03302.

Present were: Bart Cushing, Chairman
Rene Pelletier, Secretary

Board members: Jeffrey Tasker, Christopher Covell, Thomas Garside, and David Wunsch

Staff: Rick Schofield and Genevieve Al-Egaily

Chairman Cushing brought the meeting to order at 9:11 AM and introduced the Board and staff members.

Administrative Hearing

Chairman Cushing recused himself from the Board during the hearings because he had conducted an investigation for the Board regarding the respondent's experience.

Upon motion by Covell and seconded by Mr. Tasker, the Board unanimously voted to have Mr. Pelletier Chair the hearings.

Administrative Hearing - Bemis Group, LLC, Re: Experience and Qualification

The administrative hearing was being held under the authority of RSA 482-B:8 & 9 and RSA 541-A to determine whether the water well contractor and pump installer licenses held by Jeffrey Bemis and Bemis Group, LLC, should be revoked for failure to meet the experience and qualifications for the licenses under RSA 482-B:5 and We 302.04.

The hearing was recorded and an official record has been kept and is available at DES.

Attorney Mark Fernald represented Mr. Bemis. Present for the hearing were Board members: Jeffrey Tasker, Christopher Covell, Thomas Garside, David Wunsch, and acting Chairman Rene Pelletier. Also present were Michael Scalfani, the Board's Clerk, Genevieve Al-Egaily, Administrative Assistant, and the Board's legal counsel, attorney Anne Edwards. The Board heard testimony from the following people: Rick Schofield, Bart Cushing, Randy Brasseur, Don Weiss, Jeffrey Bemis, and Roger Skillings.

The Board received testimony and evidence from Mr. Schofield, which included documents of record from the Board's files, results of his January 10, 2006 memorandum to the Board on the review of references for Bemis Group, LLC, well completion reports submitted by Jeffrey Bemis, and testimony pertaining to the Board's interpretation of the statutory experience requirement.

Following Mr. Schofield's testimony, the Board received testimony from Bart Cushing who testified, and submitted written testimony, on the results of his investigation on Jeffrey Bemis' past work experience working in other States and New Hampshire.

Jeffrey Bemis and attorney Mark Fernald then addressed the Board and provided testimony and evidence on Mr. Bemis' behalf.

Following Mr. Bemis' testimony, the Board noted that Roger Skillings was present and that the Membership may wish to hear from him regarding Mr. Bemis' employment experience while employed at Skillings and Sons.

Upon motion by Mr. Covell, and seconded by Mr. Tasker, the Board unanimously voted to hear testimony from Roger Skillings.

After hearing all of the testimony, acting Chairman Pelletier closed the hearing.

Upon motion by Mr. Covell and seconded by Mr. Wunsch, the Board unanimously voted to deliberate on the possible revocation of the pump installers license.

The Board determined that Mr. Bemis had the experience to hold a pump installers license.

Upon motion by Mr. Covell and seconded by Mr. Tasker, the Board unanimously voted not to revoke the pump installers license held by Jeffrey Bemis and Bemis Group, LLC.

Upon motion by Mr. Wunsch and seconded by Mr. Covell, the Board unanimously voted to deliberate on the revocation of the water well contractor license held by Bemis Group, LLC.

The Board determined that Mr. Bemis did not have the one year of drilling experience required under We 302.04 (c) and RSA 482-B:5

Upon motion by Mr. Covell and seconded by Mr. Tasker, the Board unanimously voted to revoke the water well contractor license held by Jeffrey Bemis and Bemis Group, LLC.

Acting Chairman Pelletier closed the deliberations of the 9:00 AM hearing.

Administrative Hearing - Bemis Group, LLC, Re: Ethical Practices and Misconduct

The administrative hearing held under the authority of RSA 482-B:8 & 9 and RSA 541-A to determine if the licenses held by Jeffrey Bemis and Bemis Group, LLC should be revoked for violation of We 501.02 (b), Ethical Practices and Misconduct in the Industry, under RSA 482-B:8,I (f), for use of the name McKenna.

The hearing was recorded and an official record has been kept and is available at DES.

Attorney Mark Fernald represented Mr. Bemis. Present for the Board were members: Jeffrey Tasker, Christopher Covell, Thomas Garside, and David Wunsch, and acting Chairman Rene Pelletier. Also present were Michael Scalfani, Rick Schofield, Genevieve Al-Egaily, and the Board's legal counsel attorney Anne Edwards.

Attorney Fernald suggested that because the Board had revoked the water well contractor license of Bemis Group, LLC during the previous hearing there was no need to proceed with this hearing. Mr. Bemis admitted guilt in using the McKenna name after being licensed as Bemis Group, LLC. He had been in negotiations to purchase the name and had received their permission to use the name. When he received his license as Bemis Group, LLC he had already had the McKenna name put on his equipment and advertising. He has now changed the name on all of the equipment and advertising to BG Drilling and Geothermal, LLC. Mr. Bemis has also

agreed to complete work at his own expense on four McKenna contracts that were not completed when McKenna went out of business.

On the advice of counsel, the Board determined that the hearing would proceed despite the revocation of Mr. Bemis' water well contractor license.

Upon motion by Mr. Covell and seconded by Mr. Garside, the Board voted not to revoke the pump installer license held by Bemis Group, LLC provided that Mr. Bemis continue to use the name BG Drilling and Geothermal, LLC or another appropriately changed name other than McKenna.

Upon motion by Mr. Covell and seconded by Mr. Wunsch, the Board voted to deliberate on the revocation of the water well contractor license held by Jeffrey Bemis and Bemis Group, LLC.

The Board determined that Mr. Bemis had violated We 501.02 (b) Ethical Practices and Misconduct in the Industry under RSA 482-B:8, I (f) by using the McKenna name after being licensed as Bemis Group, LLC and after being told that he was not to use the name McKenna when the license was issued.

Upon motion by Mr. Covell and seconded by Mr. Wunsch, the Board unanimously voted to revoke the water well contractor license held by Jeffrey Bemis and Bemis Group, LLC.

Acting Chairman Mr. Pelletier closed the hearing.

Approval of Minutes

Upon motion by Mr. Tasker and seconded by Mr. Pelletier, the Board unanimously voted to accept the amended Minutes of the April 13, 2006 meeting.

Previous Complaints

Grenier / D & S Farm Builders LLC

Mr. Schofield reported that the improperly constructed dug well installed by D & S Farm Builders at 365 Avery Hill Road, Alton had been decommissioned by Capital Well Company and the abandoned well registration report had been filed. The water-quality test results for the new drilled well had been received and the report showed that the manganese and radon levels were high.

Rules

Registration of Employees

Mr. Schofield reported that he had received a two-page letter from Mr. Terry Swain supporting the establishment of an employee registration program.

To give the membership time to review the letter, the issue was moved to the next meeting.

Licensing

New Applicants

Mr. Schofield reported that there were two license applications for the Board to review. An application for a pump installer's license submitted by Justin Benes and the now completed application of Jason Parker. Justin Benes had allowed his license to expire in 2003 and was now reapplying. Jason Parker's application had been missing a reference at the time of the last meeting but a third reference had been received completing his application.

Upon motion by Mr. Pelletier and seconded by Mr. Tasker, the Board unanimously voted to approve both applications.

Old Business**Request for Exemption of We 604.04 (c) – John E. Gould**

Chairman Cushing reviewed the letter sent by Gould Well Drilling Inc. requesting an exemption of We 604.04 (c). Gould Well Drilling Inc. had drilled a well in Easton for Presby Construction of Sugar Hill. The water in the 540 ft. had never cleared and they had been requested to decommission the well because of the problem. Gould was requesting a variance to fill the borehole with aggregate from 540 ft. to 80 ft and seal the top with bentonite or grout.

Mr. Schofield reported that the request had been withdrawn because the property owner had chosen to maintain the well.

Complaint of Paul Comeau v. Comac Pump & Well LLC

Mr. Schofield reported that in response to a complaint filed by Mr. Paul Comeau, DES has issued an Administrative Fine by Consent for \$500 against Comac Pump & Well. Comac had drilled the well for the Comeau property. The well had a sediment problem and when Mr. Comeau was not satisfied with Comac's response to the problem, he had hired Downeast Well Drilling to hydro-fracture the well. Immediately following the hydro-fractured, the well collapsed, and Downeast put a camera down the well to video the problem. The video showed that the casing was approximately one foot above the eight-inch hole. Scott Costa agreed to pay the fine and DES has agreed to credit him for services rendered to the Alstead flood relief volunteers up to the sum of \$500. However, Comac claims no responsibility for the problem.

The Board requested that Mr. Schofield send a letter to the Alstead Selectman notifying them of the \$500 Supplemental Environmental Project (SEP) for well services and requested that the Board be notified when the service had been rendered.

The membership raised a concern that the settlement agreement stipulated that DES would credit Comac for the retail value of the SEP. The membership agreed that there was a significant difference between retail and cost, and it would be appropriate for DES to consider using cost rather than retail value for crediting SEP's in the future.

Mr. Schofield reported that Mr. William Hartley had also agreed to provide services for the Alstead flood relief volunteers as a means of satisfying an administrative fine.

New Business**News Letter**

Mr. Schofield reported that he and Mr. Mackey were planning to have the newsletter completed by July 4th and requested the Board's input on the content. Currently, they were planning to include information on the regulations for setbacks in Maine, a notice that the Board would no longer be holding the continuing education training courses, and a list of all enforcement actions issued by the program in the past year.

The Board suggested that information on arsenic and on the new Massachusetts water well regulations could be included in the newsletter.

Continuing Education

Mr. Schofield reported that there were 215 attendees at this year's continuing education classes.

Non-Conforming Location Form

Mr. Schofield reported that he had received a non-conforming well location form from Contoocook Artesian Well Company that was not signed by the property owner or licensee. The well had been drilled in 2004 but the form had not been filed until May 2006. The property owner had refused to sign the form and an employee, not the licensee, had signed the form for the company. He stated that he did not believe that the program should accept the form and he had returned it with a letter to Mr. Patenaude.

The Board agreed that the form should not have been accepted and that they should not be accepted without the property owner's signature. However, the Chairman suggested that a driller or sales agent should be allowed to sign the non-conforming well location form.

Upon motion by Mr. Pelletier and seconded by Mr. Wunsch, the Board unanimously voted to adjourn the meeting.

Rene Pelletier
Water Well Board Secretary